

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

1

**The Minutes**

**March 20, 2000**

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Sims, Acting Presiding Justice; Davis, Associate Justice; Callahan, Associate Justice; and Conrad, Baliff. Calendar called.

**C030983      MCBRIDE v. REED et al.**

Cause called. Steven R. Burlingham argued for appellants. Stanley A. Coolidge argued for respondent. Cause submitted.

At 9:51 a.m., court recessed. At 9:53 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Sims, and Associate Justice Kolkey.

**C032755      VOGEL v. UNITED SERVICES AUTOMOBILE ASSOCIATION**

Cause called. R. Ellis Harper argued for appellant. Jennifer K. Achtert argued for respondent. Pamela Levin appeared for respondent but did not argue. Cause submitted.

At 10:23 A.M., court recessed. At 10:25 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Raye and Associate Justice Kolkey. Cause called.

**C030318      THE PEOPLE v. JEFFERSON**

John Ward, court appointed counsel, argued for appellant. Raymond L. Brosterhous II, Deputy Attorney General, argued for respondent. Cause submitted.

**C030399      BLUE HERON MANOR, Inc., et al. v. LA CONTENTA HOMEOWNERS ASSOCIATION et al.**

Cause called. Daniel Ray Bacon argued for appellants. Raymond L. MacKay argued for respondent SHERAL Haynes. Bruce E. Leonard argued for respondents La Contena Homeowners Assn. et al. Cause submitted.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

2

**The Minutes**

**March 20, 2000 continued**

**C031177      STROUP, etc., et al. v. PROGRESSIVE NORTHWESTERN INSURANCE COMPANY**

Cause called. Daryl E. Kennedy argued for appellants. Stephen M. Smith argued for respondent. Cause submitted.

At 11:41 a.m., court recessed. At 2:00 p.m., court reconvened with Presiding Justice Scotland, Associate Justice Callahan, and Associate Justice Hull.

**C028847      WHITTLESEY v. AIELLO, As Successor Trustee; Thomson, As Executor**

Timothy H. Stearns argued for appellant with additional citations. James L. Pierce argued for appellant. Lauren E. Leisz argued for respondent. Cause submitted. (Consolidated with C030809)

**C030809      WHITTLESEY v. AIELLO, As Trustee; THOMSON, As Executor**

Cause called. Timothy H. Stearns argued for appellant. Lauren E. Leisz argued for respondent. James L. Pierce appeared for appellant but did not argue. Cause submitted. (Consolidated with C028847)

**C032237      A/C INDUSTRIAL SERVICES CORPORATION v. REGIONAL COUNCIL OF RURAL COUNTIES, etc.**

Cause called. James E. Thompson argued for appellant. James A. Curtis argued for respondent. Cause submitted.

At 3:30 p.m., court recessed. At 3:32 p.m., court reconvened with Presiding Justice Scotland, Associate Justice Raye, Associate Justice Hull.

**C029608      In re KENNETH H.; THE PEOPLE v. KENNETH H.**

Cause called. James F. Wilson, court appointed counsel, argued for appellant. Ruth Saavedra, Deputy Attorney General, argued for respondent. Cause submitted.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

3

**The Minutes**

**March 20, 2000 continued**

- C025712      BARROWS et al. v. MARTIN**  
Cause called. Discussion occurred about status of case. Robert M. Schuster appeared for plaintiff-appellants-x-respondents. Kenneth M. Foley appeared for defendant-respondent-x-appellant. A settlement hearing will be held on May 16, 2000. Mr. Schuster is to notify the court of the status of the case by May 19, 2000.
- At 3:57 p.m., court recessed until 9:30 a.m., March 21, 2000.
- C031530      In re LAUREN W.; DEPARTMENT OF HEALTH AND HUMAN SERVICES et al v. CONNIE W. et al.**  
Appellant Alexander P.'s petition for rehearing is denied.  
SIMS, Acting P.J.
- C034704      GRACE H. v. SUPERIOR COURT, SUTTER COUNTY; SUTTER COUNTY DEPARTMENT OF HUMAN SERVICES et al.**  
**(Not for Publication)**  
The petition and request for a stay are denied.  
SIMS, Acting P.J.  
We concur: Raye, J.  
Callahan, J.
- C030590      THE PEOPLE v. REDMAN      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, Acting P.J.  
We concur: Raye, J.  
Callahan, J.
- C032810      THE PEOPLE v. GOLAB II      (Not for Publication)**  
The judgment is modified to strike the no visitation order. (Pen. Code, § 1202.45.) The trial court is directed to prepare an amended abstract of judgment reflecting this modification as well as the concurrent one-year term for the misdemeanor sexual battery offense and to forward a copy to the Department of Corrections. As modified, the judgment is affirmed.  
SIMS, J.  
We concur: Scotland, J.  
Nicholson, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

4

**The Minutes**

**March 20, 2000 continued**

**C030614      LARGENT v. GOLDEN STATE COACHES, Inc., et al.      (Not for Publication)**

The judgment is affirmed.  
BLEASE, Acting P.J.  
We concur: Davis, J.  
Nicholson, J.

**C031268      THE PEOPLE v. DANIELS      (Not for Publication)**

The judgment is affirmed.  
DAVIS, J.  
We concur: Scotland, P.J.  
Hull, J.

**C030567      THE PEOPLE v. BENOIT      (Not for Publication)**

The judgment is affirmed.  
SIMS, Acting P.J.  
We concur: Davis, J.  
Morrison, J.

**C032213      THE PEOPLE v. THAO      (Not for Publication)**

The judgment of conviction for kidnapping is reversed. In all other respects the judgment is affirmed.  
BLEASE, Acting P.J.  
I concur: Nicholson, J.  
I concur fully except as to Part I in which I concur in the result.  
Raye, J.

**C032994      THE PEOPLE v. WITHERS      (Not for Publication)**

The judgment is affirmed.  
DAVIS, J.  
We concur: Scotland, P.J.  
Morrison, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

5

**The Minutes**

**March 20, 2000 continued**

**C032812      THE PEOPLE v. GARDINEER      (Certified for Partial Publication)**  
The judgment is modified so as to reduce the restitution fine imposed pursuant to Penal Code section 1202.4 to \$200 further, to reduce the restitution fine imposed pursuant to Penal Code section 1202.45 to \$200. As modified, the judgment is affirmed. The trial court shall prepare an amended abstract of judgment showing the aforementioned modifications of the judgment and shall forward a copy of the same to the Department of Corrections.  
SIMS, Acting P.J.  
We concur:    Davis, J.  
                 Morrison, J.

**March 21, 2000**

**C030328      THE PEOPLE v. KING**  
Appellant's petition for rehearing is denied.  
SCOTLAND, P.J.

**C031398      THE PEOPLE v. MACDONALD**  
Appellant's request to publish the opinion filed on February 22, 2000, is denied.  
BLEASE, Acting P.J.

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of the court calendar session. Present: Blease, Acting Presiding Justice; Nicholson, Associate Justice; Raye, Associate Justice; and Rios, Bailiff. Calendar called.

**C030466      CELESTINE v. GLASS, MOLDERS, POTTERS, PLASTICS, etc. et al.**  
Cause called. Kelly Stimpel Rasmussen argued for appellant. Matthew D. Ross argued for respondents. Cause submitted.

At 10:02 a.m., court recessed. At 10:09 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Nicholson, and Associate Justice Hull.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

6

**The Minutes**

**March 21, 2000 continued**

**C030715      THE PEOPLE v. SPENCE**

Cause called. Victor J. Morse, court appointed counsel, argued for appellant. John A. Sullivan, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:21 a.m., court recessed. At 10:24 a.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Nicholson, and Associate Justice Hull.

**C030400      VEGA v. BANK OF THE WEST**

Cause called. Patricia T. Reeves argued for appellant. Arturo J. Gonzalez argued for respondent. Cause submitted.

**C031276      DEPARTMENT OF MOTOR VEHICLES v. NEW MOTOR VEHICLE  
BOARD; CHRYSLER MOTOR CORPORATION**

Cause called. Marian M. Johnston argued for appellant. Kevin J. Dunne argued for respondent. Kirk C. Jenkins appeared for respondent but did not argue. Cause submitted.

At 11:18 a.m., court recessed. At 11:23 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Nicholson, and Associate Justice Hull.

**C028413      THE PEOPLE v. PACK**

Cause called. Cynthia A. Thomas, court appointed counsel, argued for appellant. No appearance was made on behalf of respondent. Cause submitted.

At 11:40 a.m., court recessed. At 2:00 p.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Nicholson, and Associate Justice Raye.

**C023184      MILLS v. DEPARTMENT OF FISH GAME et al.**

Cause called. Walter P. McNeill argued for appellant-x-respondent. Marian E. Moe, Deputy Attorney General, argued for respondents-x-appellants. Cause submitted. (Consolidated with C023075)

## 7

**March 21, 2000 continued**

**C023075 CALIFORNIA ASSOCIATION, etc. et al. v. DEPARTMENT OF FISH AND GAME et al.; MILLS et al.**  
Cause called. Walter P. McNeill argued for appellants. Dennis F. Moss argued for respondents. Cause submitted. (Consolidated with C023184)

At 2:44 p.m., court recessed. At 2:48 p.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Nicholson, and Associate Justice Hull.

**C030198**      **DeLONG v. ST. JOSEPH'S MEDICAL CENTER**  
Cause called. Curtis A. Cole argued for appellant. J. Douglas Van Sant  
appeared for appellant but did not argue. Tony Tanke argued for  
respondent. Cause submitted.

At 3:26 p.m., court recessed until 9:30 a.m., March 22, 2000.

**C032904**      **THE PEOPLE v. MACE**      **(Not for Publication)**

The trial court is directed to prepare a corrected abstract of judgment to reflect the \$156 main jail booking fee and the \$32 jail classification fee, and to forward a certified copy to the Department of Corrections. The judgment is affirmed.

MORRISON, J.

We concur:    Raye, Acting P.J.  
                     Kolkey, J.

**C031562**      **BRUSTIN, etc. v. ZEHNLE et al.**      **(Not for Publication)**  
The judgment is reversed. Plaintiff shall recover costs on appeal.  
RAYE, J.  
We concur: Scotland, P.J.  
Blease, J.

**C031001**      **THE PEOPLE v. HARRIS, JR.**      **(Not for Publication)**  
The enhancement on count 3 is stricken; the judgment is otherwise affirmed. The trial court is directed to prepare and forward to the Department of Corrections a certified copy of an accurate abstract of judgment.

MORRISON, J.

We concur:      Nicholson, Acting P.J.  
                         Kolkey, J.





**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

9

**The Minutes**

**March 22, 2000 continued**

At 10:23 a.m., court recessed. At 10:26 a.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Raye, and Associate Justice Kolkey.

**C032440      AUTEN v. LLOYD**

Cause called. Richard R. Murphy argued for appellant. Marcia L. Augsburger argued for respondent. Cause submitted.

At 10:55 a.m., court recessed. At 11:00 a.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Davis, and Associate Justice Raye.

**C031538      THE PEOPLE v. WATSON**

Cause called. Lori Klein, court appointed counsel, argued for appellant. Julie A. Hokans, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:25 a.m., court recessed. At 2:00 p.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Raye and Associate Justice Kolkey.

**C031511      MATHEWS et al. v. MATHEWS et al.**

Cause called. Daniel Boone argued for appellants. Richard H. Gray argued for respondent Rader. Cause submitted.

Court recessed at 2:29 p.m., until 9:30 a.m., March 23, 2000.

**C030871      ARNEY v. MOORE  
C032491**

**(Not for Publication)**

The appeal from the sanctions order is dismissed. Respondent's requests for sanctions for a frivolous appeal and that appellant be declared a vexatious litigant are denied. The child support orders are affirmed.

We concur:      NICHOLSON, J.  
                     Sims, Acting P.J.  
                     Morrison, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

10

**The Minutes**

**March 22, 2000 continued**

- C031127      THE PEOPLE v. DILLON      (Not for Publication)**  
The judgment is affirmed.  
                                 SCOTLAND, P.J.  
We concur:    Davis, J.  
                                 Hull, J.
- CC31057      LUMPKIN v. FISHBURNE et al.      (Not for Publication)V0**  
The judgment is affirmed.  
                                 SIMS, J.  
We concur:    Blease, Acting P.J.  
                                 Callahan, J.
- C031986      THE PEOPLE v. ALBINI      (Not for Publication)**  
The judgment is affirmed.  
                                 SIMS, J.  
We concur:    Blease, Acting P.J.  
                                 Callahan, J.

**March 23, 2000**

- C030498      THE PEOPLE v. WHITSETT      (Not for Publication)**  
It is ordered that the opinion filed herein on February 23, 2000, be modified as follows:
- There is no change in judgment.  
Appellant's petition for rehearing is denied.  
                                 SCOTLAND, P.J.  
                                 Blease, J.  
                                 Morrison, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

11

**The Minutes**

**March 23, 2000 continued**

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of court calendar session. Present: Blease, Acting Presiding Justice; Raye, Associate Justice; Callahan, Associate Justice; and Conrad, Bailiff.

**C027503      THE PEOPLE v. CUSH**

Cause called. Charles Bonneau, court appointed counsel, argued for appellant. David A. Rhodes, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:55 a.m., court recessed. At 9:59 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Davis, and Associate Justice Callahan.

**C030088      THE PEOPLE v. GRIFFITH, JR.**

Cause called. Mark Christiansen, court appointed counsel, argued for appellant. Julia A. Hokans, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:26 a.m., court recessed. At 10:30 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Callahan, and Associate Justice Hull.

**C031321      LUNKLEY v. VALLEY OFF ROAD RACING ASSOCIATION et al.**

Cause called. Lyle D. Gisi argued for appellant. Peter M. Hart argued for respondents. J. Chauncey Hayes appeared for respondents but did not argue.

At 10:44 a.m., court recessed until 9:30 a.m., March 24, 2000.

**C033191      THE PEOPLE v. VASQUEZ**

**(Not for Publication)**

The judgment is affirmed.

CALLAHAN, J.

We concur:    Sims, Acting P.J.

Davis, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

12

**The Minutes**

**March 23, 2000 continued**

**C033460**

**THE PEOPLE v. GORDON**

**(Not for Publication)**

The judgment is modified in the following respects: (1) Defendant is awarded a total of 1,753 days of custody credit; and (2) the restitution fine imposed under section 1202.45 is stricken. The trial court shall prepare an amended abstract of judgment showing these modifications and shall forward a certified copy of the amended abstract of judgment to the Department of Corrections. In all other respects, defendant's convictions and sentence are affirmed.

SIMS, Acting P.J.

We concur: Davis, J.

Morrison, J.